

AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE JUNE 2, 2009

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 51

**Introduced by Senator Ducheny
(Coauthor: Senator Steinberg)**

(Coauthors: Assembly Members V. Manuel Perez and Salas)

January 13, 2009

An act to add the heading to Article 1 (commencing with Section 2930) of, and to add Article 2 (commencing with Section 2940) to, Chapter 13 of Division 3 of, the Fish and Game Code, relating to the Salton Sea Restoration Council.

LEGISLATIVE COUNSEL'S DIGEST

SB 51, as amended, Ducheny. Salton Sea Restoration Council.

Existing law requires the Secretary of the Natural Resources Agency, in consultation with the Department of Fish and Game, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and a specified advisory committee, to undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. Existing law establishes the Salton Sea Restoration Fund, which is administered by the Director of Fish and Game, and requires the moneys in that fund to be expended, upon appropriation by the Legislature, for various actions on behalf of the Salton Sea, including the implementation of the preferred Salton Sea restoration alternative.

This bill would establish the Salton Sea Restoration Council *as a state agency* in the Natural Resources Agency to ~~evaluate~~ *implement* certain ~~program alternatives~~ *preferred alternative activities* set forth in the agency's Salton Sea Ecosystem Restoration Program ~~and would require the council, by January 1, 2011, to recommend to the Legislature a restoration plan for the Salton Sea based on one of those alternatives, to develop and implement, or finance, additional pilot or demonstration projects to improve the water quality of the Salton Sea, to restore the Salton Sea ecosystem, and to take other actions to enhance the sea.~~

The bill would prescribe requirements relating to the composition and administration of the council. The council would be required to include an executive committee, *a science committee*, a local government forum, and a stakeholder forum, as specified. The executive committee would be required to serve as the governing body of the council *and provide guidance and oversight on behalf of the restoration program.* ~~The Department of Water Resources would be required to provide support to the council, subject to an appropriation for that purpose.~~

The bill would require the Department of Fish and Game to provide staff services that the council requires to carry out its activities and to enter into interagency agreements with the Department of Water Resources and other state agencies to provide staff services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Article 1 (commencing with
2 Section 2930) is added to Chapter 13 of Division 3 of the Fish and
3 Game Code, to read:

4
5 Article 1. General Provisions

6
7 SEC. 2. Article 2 (commencing with Section 2940) is added
8 to Chapter 13 of Division 3 of the Fish and Game Code, to read:

9
10 Article 2. Salton Sea Restoration Council

11
12 2940. The Legislature finds and declares all of the following:

1 (a) The Salton Sea is California's largest inland water body with
2 beneficial uses that include fisheries and wildlife habitat,
3 preservation of endangered species, and a repository for agricultural
4 drainage.

5 (b) The Salton Sea ecosystem is a critical link on the
6 international Pacific Flyway and supports over 400 species of
7 birds.

8 (c) The Salton Sea is threatened by increasing salinity and
9 reduced inflows. These changes increasingly threaten unparalleled
10 wildlife resources at the sea, as well as air quality in the region.

11 (d) In cooperation with local governments, nonprofit
12 organizations, private business, and the public, the Salton Sea
13 Restoration Council can help protect wildlife habitats and
14 endangered species, improve water and air quality, and enhance
15 recreational opportunities in the region.

16 2941. Unless the context otherwise requires, the definitions
17 set forth in this section govern the construction of this article.

18 (a) "Agency" means the Natural Resources Agency.

19 (b) "Council" means the Salton Sea Restoration Council.

20 (c) ~~Draft~~ "Final PEIR" means the Natural Resources Agency's
21 Salton Sea Ecosystem Restoration Program—~~Draft~~ *Final*
22 Programmatic Environmental Impact Report, dated ~~October 2006~~
23 *May 2007*.

24 (d) "Habitat mosaics" means two or more proximate habitat
25 types, such as saltwater shoreline abutting riverine deltas and
26 irrigated farmland.

27 (e) "Salton Sea watershed" means the geographic boundaries
28 of the Salton Sea basin, defined as the United States Geologic
29 Survey Hydrologic Unit 18100200 ("Salton Sea").

30 (f) "Sea" means the Salton Sea.

31 (g) "Secretary" means the Secretary of the Natural Resources
32 Agency.

33 (h) "Vector management" means services that eliminate or
34 reduce the risk of illness caused by any organism transporting a
35 pathogen.

36 2942. There is in the Natural Resources Agency the Salton Sea
37 Restoration ~~Council~~. *Council, which is established as a state*
38 *agency to carry out, to the maximum extent possible, all of the*
39 *following, working in collaboration with local governments and*
40 *interested parties:*

1 (a) Give first priority to implementing each of the agency's
2 Salton Sea Ecosystem Restoration Program Preferred Alternative
3 "Period I" activities, as described in Chapter 3 of Volume I of the
4 Final PEIR, to the extent that these activities are not already
5 completed by other entities. The activities identified in "Period I"
6 include conducting a demonstration project, "early start habitat,"
7 conducting additional biological, inflow, sediment quality, water
8 quality, and air quality investigations, conducting geotechnical
9 and hazards surveys and analyses, coordinating with the Torres
10 Martinez Band of Desert Cahuila Indians and other stakeholders,
11 executing land access and utility agreements, and preparing project
12 level environmental documentation and final design.

13 (b) Implement, as funding is made available for those purposes,
14 the remaining priorities identified in subdivisions (c) to (l),
15 inclusive.

16 (c) Develop and implement, or finance, additional pilot or
17 demonstration projects to assess the efficacy of methods to improve
18 water quality of the Salton Sea.

19 (d) Restore the Salton Sea ecosystem.

20 (e) Permanently protect the fish and wildlife dependent on the
21 Salton Sea ecosystem.

22 (f) Restore the long-term stable aquatic and shoreline habitat
23 to achieve the historic levels and the diversity of fish and wildlife
24 that depend on the Salton Sea.

25 (g) Eliminate air quality impacts from the restoration projects
26 using the best available technology as defined by the South Coast
27 Air Quality Management District and the Imperial County Air
28 Pollution Control District.

29 (h) Protect water quality.

30 (i) Maintain the sea as a vital link along the international Pacific
31 Flyway.

32 (j) Preserve local tribal heritage and cultural values associated
33 with the sea.

34 (k) Eliminate noxious odors and other water and air quality
35 problems.

36 (l) Implement the agency's Salton Sea Ecosystem Restoration
37 Program Preferred Alternative, as revised during the
38 implementation process, working in collaboration with local
39 governments and interested parties to address funding constraints
40 and other related matters. Implementation of the preferred

alternative shall be consistent with Section 2931 and shall be subject to availability of funding and information obtained during the implementation of the Salton Sea Ecosystem Restoration Program Preferred Alternative “Period I” activities, as described in Chapter 3 of Volume I of the Final PEIR.

~~2943. (a) The council shall evaluate the program alternatives described in Chapter 3 of Volume I of the Draft PEIR. On or before January 1, 2011, the council shall recommend to the Legislature a restoration plan for the Salton Sea based on one of those alternatives.~~

~~(b) The council’s recommended restoration plan shall address both of the following:~~

~~(1) Existing statutory and contractual obligations of the state, giving particular consideration to issues relating to air quality and wildlife habitat in and around the Salton Sea.~~

~~(2) The state’s ability to finance a restoration plan, giving consideration to potential nonstate sources of funding.~~

~~(c) The restoration plan shall include a financing plan that provides detailed information on projected expenditures and sources of funding.~~

2944. (a) The council shall consist of the following groups:

(1) An executive committee.

(2) A science committee.

~~(2)~~

(3) A local government forum.

~~(3)~~

(4) A stakeholder forum.

(b) The executive committee shall consist of 14 voting members and eight nonvoting members, appointed or designated as follows:

(1) The 14 voting members of the executive committee shall consist of all of the following:

(A) The Director of Fish and Game.

(B) The Director of Water Resources.

(C) The Director of Parks and Recreation.

(D) The Chairperson of the State Water Resources Control Board.

(E) The Chairperson of the State Air Resources Board.

~~(F) The Director of Finance.~~

~~(G) The Secretary of the Natural Resources Agency.~~

~~(H) The Treasurer.~~

1 ~~(F)~~
2 (F) One public member appointed by the Governor, who is not
3 an elected official and who represents a statewide public health
4 organization.
5 ~~(J)~~
6 (G) One public member appointed by the Speaker of the
7 Assembly, who is not an elected official and who represents a
8 statewide hunting or fishing organization.
9 ~~(K)~~
10 (H) One public member appointed by the Senate Committee on
11 Rules, who is not an elected official and who represents a statewide
12 environmental organization.
13 ~~(L)~~
14 (I) One member from, and selected by, the Imperial County
15 Board of Supervisors, if that board agrees to do so.
16 ~~(M)~~
17 (J) One member from, and selected by, the Riverside County
18 Board of Supervisors, if that board agrees to do so.
19 ~~(N)~~
20 (K) One member from, and selected by, the Board of Directors
21 of the Coachella Valley Water District, if that board agrees to do
22 so.
23 ~~(O)~~
24 (L) One member from, and selected by, the Board of Directors
25 of the Imperial Irrigation District, if that board agrees to do so.
26 ~~(P)~~
27 (M) One member selected by the Tribal Council of the Torres
28 Martinez Band of Desert Cahuilla Indians, if that council agrees
29 to do so.
30 ~~(Q)~~
31 (N) One member selected by the Tribal Council of the Cabazon
32 Band of Mission Indians, if that council agrees to do so.
33 (2) The members appointed pursuant to subparagraphs-~~(F)~~ (F)
34 to-~~(K)~~ (H), inclusive, of paragraph (1) shall serve one term of four
35 years, and may be reappointed to one additional term.
36 (3) A state, local, or tribal official who is a member of the
37 executive committee may designate a member of his or her
38 executive staff to vote on his or her behalf and otherwise discharge
39 the duties of the member when the member is not in attendance.

1 Notice of this designation shall be promptly communicated in
2 writing to the chairperson of the executive committee.

3 (4) The nonvoting members of the executive committee shall
4 consist of all of the following, as they may be available:

5 (A) The lead scientist.

6 (B) One representative of the United States Environmental
7 Protection Agency.

8 (C) One representative of the United States Bureau of
9 Reclamation.

10 (D) One representative of the United States Fish and Wildlife
11 Service.

12 (E) One representative of the United States Army Corps of
13 Engineers.

14 (F) One representative of the United States Geological Survey.

15 (G) One representative of the federal Bureau of Land
16 Management.

17 (H) One representative of the United States Department of
18 Defense.

19 *(c) (1) The science committee shall consist of the lead scientist*
20 *and national and locally recognized experts familiar with*
21 *large-scale wetlands and marine restoration efforts and*
22 *knowledgeable about the application of adaptive management*
23 *protocols and long-term monitoring. The science committee shall*
24 *also include experts in dike design and dredging, water treatment,*
25 *and hydraulics.*

26 ~~(e) (1)~~

27 (2) (A) The lead scientist shall be appointed by the United States
28 Geological Survey Salton Sea Science Office, if that office agrees
29 to do so.

30 ~~(2)~~

31 (B) If the United States Geological Survey Salton Sea Science
32 Office does not appoint the lead scientist, the lead scientist shall
33 be appointed by the executive committee.

34 (C) *The lead scientist shall nominate other experts for*
35 *membership on the science committee, subject to confirmation by*
36 *the executive committee.*

37 (d) The local government forum shall include elected
38 representatives from within the Salton Sea watershed, if the
39 governing body of the respective local government agrees to
40 appoint a designee to the forum, and may include local air pollution

1 control officials. The council shall request the Salton Sea Authority
2 to assist the council by doing all of the following:

- 3 (1) Inviting local elected representatives to join the forum.
- 4 (2) Convening and organizing regular meetings of the forum.
- 5 (3) Transmitting information from the executive committee to
6 the forum.
- 7 (4) Transmitting recommendations and suggestions from the
8 forum to the executive committee.

9 (e) The stakeholder forum shall consist of interested parties, as
10 determined by the executive committee, with demonstrated
11 long-term, ongoing interest in the restoration plan and shoreline,
12 representing the following categories:

- 13 (1) Persons associated with local businesses and community
14 service districts.
- 15 (2) Farmers.
- 16 (3) Persons associated with environmental organizations.
- 17 (4) Persons associated with public access and recreational
18 interests.
- 19 (5) Persons associated with public infrastructure.
- 20 (6) Community advocates.
- 21 (7) Persons associated with geothermal companies.
- 22 (8) Persons associated with public works.
- 23 (9) Public health officials.
- 24 (10) Tribal and elected local and state officials.

25 2945. (a) (1) The executive committee shall serve as the
26 governing body of the council *and shall provide overall guidance*
27 *and oversight on behalf of the restoration program*. The members
28 of the executive committee shall serve without compensation.

29 (2) *The executive committee shall provide the overall leadership*
30 *for the planning of the restoration program. The Department of*
31 *Fish and Game shall implement and be responsible for all*
32 *components of the planning, including, but not limited to, all of*
33 *the following:*

- 34 (A) *Overall plan design.*
- 35 (B) *Project proposal review and selection.*
- 36 (C) *Contracting.*
- 37 (D) *Land access and acquisition of easements.*
- 38 (E) *Project management.*
- 39 (F) *Biological and physical monitoring, including air quality.*
- 40 (G) *Public participation and outreach.*

1 (H) *Public policy impacts and analysis.*

2 (I) *Budgeting.*

3 (J) *Dispute resolution.*

4 (K) *Integration of the planning process with air quality*
5 *management, public health, and other regulatory entities.*

6 (L) *Governmental relations.*

7 ~~(2)~~

8 (3) The executive committee shall make decisions by a
9 *two-thirds* majority of the total number of voting members. If a
10 conflict exists, a voting member shall recuse himself or herself
11 from voting on an item.

12 ~~(3)~~

13 (4) (A) The voting members of the executive committee shall
14 elect, annually from among the voting members, a chairperson, a
15 vice chairperson, and other officers as necessary. The officers may
16 be reelected.

17 (B) The offices of chairperson and vice chairperson shall not
18 be held concurrently by any of the persons in the following
19 categories:

20 (i) Persons identified in subparagraphs (A) to ~~(H)~~ (E), inclusive,
21 of paragraph (1) of subdivision (b) of Section 2944.

22 (ii) Persons identified in subparagraphs ~~(I) to (K)~~ (F) to (H),
23 inclusive, of paragraph (1) of subdivision (b) of Section 2944.

24 (iii) Persons identified in subparagraphs ~~(L) to (Q)~~ (I) to (N),
25 inclusive, of paragraph (1) of subdivision (b) of Section 2944.

26 (C) If the office of chairperson or vice chairperson becomes
27 vacant, a new chairperson or vice chairperson shall be elected by
28 the voting members of the executive committee to serve for the
29 remainder of the term.

30 (D) Ten of the voting members shall constitute a quorum for
31 the transaction of the business of the executive committee. The
32 executive committee shall adopt rules, regulations, and procedures
33 for the conduct of business by the executive committee.

34 (5) The executive committee shall hold the majority of its
35 regularly scheduled meetings within the Salton Sea watershed.

36 (b) *The science committee shall do all of the following:*

37 (1) *Provide best available science and engineering oversight*
38 *to the overall planning and implementation processes.*

39 (2) *Provide periodic review of local technical investigations*
40 *pertaining to the restoration plan design and implementation.*

1 (3) Consult with and advise the stakeholder forum, under the
2 direction of the lead scientist.

3 (4) Provide guidance on ongoing short-term planning activities.

4 (5) Develop a science program for the collection, synthesis, and
5 dissemination of best available science to support long-term
6 restoration activities and adaptive management.

7 ~~(b)~~

8 (c) The local government forum shall facilitate communication
9 between local governments and landowners, the executive
10 committee, and the stakeholder forum on the progress of plan
11 development and implementation.

12 ~~(e)~~

13 (d) (1) The stakeholder forum shall provide ongoing, publicly
14 derived input to the executive committee *relating to habitat*
15 *objectives and actions, types and levels of public access, and*
16 *integration of air quality management and habitat restoration.*

17 (2) The stakeholder forum shall assist the executive committee
18 and other council members to gain a broader understanding of
19 public and interest group perspectives.

20 (3) The stakeholder forum shall provide focused review and
21 discussion, and shall seek to achieve consensus on significant
22 matters, including the following:

23 (A) Discussion and general agreement on design opportunities
24 and constraints, and integration of the habitat, public access, and
25 air quality management objectives.

26 (B) Public access and recreational components.

27 (C) Opportunities for economic development.

28 (D) Habitat mosaics and location.

29 (E) Vector management and predator control.

30 ~~(d)~~

31 (e) All members of the executive committee *and the science*
32 *committee* may be reimbursed for their actual and necessary
33 expenses, including travel expenses, incurred in attending meetings
34 of the council and the *respective* committee and carrying out the
35 duties of their office.

36 ~~(e)~~

37 (f) The Salton Sea Restoration Council may do the following:

38 (1) Sue and be sued.

39 (2) Enter into contracts pursuant to Article 4 (commencing with
40 Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of

1 the Government Code, for services requiring knowledge,
2 experience, and ability not possessed by the council's staff.

3 (3) Enter into other agreements with public agencies, private
4 entities, and persons necessary for the proper discharge of its duties.

5 (f)

6 (g) (1) Only funds deposited in the Salton Sea Restoration Fund
7 or nonstate funds may be expended to carry out this article.

8 (2) The status of the Salton Sea Restoration Fund shall be
9 included in the Governor's proposed annual budget document.

10 (3) *The council shall advise the Director of Fish and Game with*
11 *regard to the expenditure of funds from the Salton Sea Restoration*
12 *Fund.*

13 2946. (a) (1) The secretary shall select, in consultation with
14 the executive committee, the executive director of the council.

15 (2) The executive director shall be exempt from civil service
16 and shall serve at the pleasure of the executive committee.

17 (3) For purposes of this article, the executive director shall be
18 an employee of the Natural Resources Agency.

19 ~~(b) The Department of Water Resources shall provide support~~
20 ~~to the council, subject to an appropriation by the Legislature from~~
21 ~~the Salton Sea Restoration Fund for that purpose.~~

22 (b) *The Department of Fish and Game shall provide the staff*
23 *services, using staff currently dedicated to Salton Sea activities or*
24 *other staff provided by legislative action, that the council requires*
25 *to carry out its functions, including, but not limited to, all of the*
26 *following:*

27 (1) *Administering grants and expenditures made available to*
28 *the council from the Salton Sea Restoration Fund or other sources,*
29 *including, but not limited to, block grants from other state boards,*
30 *commissions, or departments.*

31 (2) *Administering contracts.*

32 (3) *Arranging meetings, agendas, and other administrative*
33 *functions.*

34 (4) *Communication and public outreach, including all of the*
35 *following:*

36 (A) *Public meetings with interested parties, presentations, and*
37 *workshops.*

38 (B) *A regularly updated project-specific Internet Web site.*

39 (C) *Electronic mail and paper newsletters in English and*
40 *Spanish.*

1 (5) *Conducting biological investigations.*

2 (c) *The Director of Fish and Game and the Director of Water*
3 *Resources shall enter into interagency agreements with each other*
4 *to provide the staff service, using staff dedicated to Salton Sea*
5 *activities or other staff provided by legislative action, to carry out*
6 *the functions of the council.*

7 (d) *The Director of Fish and Game shall enter into interagency*
8 *agreements with other state agencies to provide the staff services,*
9 *using staff dedicated to Salton Sea activities or other staff provided*
10 *by legislative action, to carry out the functions of the council.*

11 2947. (a) The council's jurisdiction is limited to the Salton
12 Sea watershed within the State of California.

13 (b) This article does not grant to the council any regulatory
14 authority, including any of the following authority:

15 (1) The authority to regulate land use.

16 (2) Any authority to regulate activities on land, unless the
17 regulation is carried out pursuant to an agreement with an owner
18 of an interest in the land.

19 (3) Authority over water rights held by others.

20 (4) Any air quality regulatory authority.

21 (c) (1) Nothing in this article interferes with or prevents the
22 exercise of authority by a public agency to carry out its programs,
23 projects, or responsibilities.

24 (2) Nothing in this article affects requirements imposed under
25 any other provision of law.